

DEC 21 2005

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NATHAN JOSHUA RAMAZZINI,

Petitioner - Appellee,

v.

R. KIRKLAND,**

Respondent - Appellant.

No. 04-17555

D.C. No. CV-02-00653-FCD

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Frank C. Damrell, Jr., District Judge, Presiding

Argued and Submitted November 14, 2005
San Francisco, California

Before: GOODWIN, O'SCANNLAIN, and TALLMAN, Circuit Judges.

A California jury convicted the petitioner, Nathan Ramazzini, of first-degree murder after he confessed to participating in the killing of Erik Ingebretsen.

Ramazzini appealed, claiming that his confession was involuntary because police

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** Richard Kirkland is substituted for his predecessor, D. Runnels, pursuant to Fed. R. App. P. 43(c)(2).

had threatened him with the death penalty. The California Court of Appeal rejected his appeal, finding that there was “no direct threat.” After the California Supreme Court summarily denied review, Ramazzini filed a petition for a writ of habeas corpus in the District Court for the Eastern District of California.

The district court rejected the state court’s reading of the factual record as “neither grammatically nor inferentially correct.” Finding that Ramazzini had been threatened with the death penalty, the district court held that his confession was involuntary and granted his habeas petition.

We review the district court’s decision to grant habeas corpus relief de novo. *Lambert v. Blodgett*, 393 F.3d 943, 964 (9th Cir. 2004). Under AEDPA, that relief may not be granted unless the State court proceedings “resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.” 28 U.S.C. § 2254(d)(2). Under this section, the California state court’s findings may not be disturbed unless we, “applying the normal standards of appellate review, could not reasonably conclude that the finding is supported by the record.” *Lambert*, 393 F.3d at 972 (citation and quotation marks omitted).

After reviewing the evidence, we conclude that the police detective’s reference to the death penalty during Ramazzini’s interrogation is amenable to

more than one interpretation. The District Court of Appeal could reasonably conclude that the record supported the trial court's finding.

The district court based its decision largely on its own interpretation of the death penalty reference, noting that the other aspects of Ramazzini's interrogation were not overly coercive. Because we must defer to the state court's finding on this key disputed issue, we are satisfied that the state court decision allowing the use of Ramazzini's confession at trial was not objectively unreasonable. 28 U.S.C. § 2254(d).

Therefore, the district court erred in granting his habeas petition.

REVERSED.